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IN THE UNITED STATES DISTRICT COURT
5
FOR THE NORTHERN DISTRICT OF CALIFORNIA
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7 NUVEEN MUNICIPAL HIGH INCOME No. C 08-4575 SI; Related Case No. 09-1437 SI
8 OPPORTUNITY FUND, *et al.*,
9 Plaintiffs,

10 v.
11 CITY OF ALAMEDA, *et al.*,
12 Defendants.
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**ORDER DIRECTING FURTHER
BRIEFING ON CALIFORNIA
GOVERNMENT CODE IMMUNITY**

15 Nuveen has filed a motion for leave to file a motion for reconsideration on the issue of California
16 Government Code immunity. Nuveen asserts, for the first time, that California Government Code § 814
17 provides an express waiver of government immunity for any breach of contract by a governmental entity,
18 and thus that its state law claims against Alameda are not barred. Osher has joined in Nuveen's motion.
19 Alameda opposes both motions on numerous grounds.

20 Although the Court has serious questions about Nuveen's diligence in raising this issue, the
21 Court nevertheless finds it prudent to order further briefing on whether Nuveen can invoke California
22 Government Code § 814 and proceed on its state law claims against Alameda. Alameda correctly notes
23 that the Court granted summary judgment on Osher's state law claims against Alameda on both
24 immunity and claims presentment grounds, and thus there is no basis to reconsider the Court's ruling
25 with respect to Osher.

26 Accordingly, the Court sets the following briefing schedule: Nuveen shall file a brief of no more
27 than 15 pages by **noon on August 23, 2011**; Alameda shall file an opposition of no more than 15 pages
28 by **noon on August 29, 2011**; and Nuveen may file a reply of no more than 5 pages by **noon on August**

1 31, 2011. The Court will hold a hearing on the matter at 9 am on September 2, 2011.
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3 **IT IS SO ORDERED.**
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5 Dated: August 17, 2011
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SUSAN ILLSTON

United States District Judge